

**{In Archive} Wal-Mart/Greenleaf Issue - ENFORCEMENT SENSITIVE**

**Maryjane Wingett** to: Yolaanda Walker, Mary McDonnell

05/21/2008 12:41 PM

Cc: Jamie Green, Barbara Shepard, Akilah Nicks, Jamie Green, Alyse Stoy

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History: This message has been forwarded.

Archive: This message is being viewed in an archive.

Attached is a copy of the first inspection report for the 1/08/08 inspection at the Greenleaf facility in Neosho, Mo. I've also copied an email we received from one of the state inspectors after the state's second inspections at the Pineville, Missouri and Neosho, Missouri sites on 4/21/08 and 4/22/08. I thought these documents might be of help to you before the conference call, and give you a flavor of the situation. We'll talk with you later.

mjlw



Greenleaf Inspection Report Narrative.pdf

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**From:** Steiner, Gary

**Sent:** Wed 4/23/2008 12:42 PM

**To:** Bailey, Paul

**Cc:** Brunnert, John

**Subject:** Greenleaf, LLC Inspections

During the long drive home yesterday I had an opportunity to summarize my thoughts concerning our observations and information collected during the Greenleaf, LLC inspections at both the Pineville, Missouri (4/21/08) and the Neosho, Missouri (4/22/08) sites.

The April 21, 2008 inspection confirmed the Pineville Greenleaf site received shipments of very large quantities of pesticides and has operated as an unregistered pesticide production establishment. Sometime after our January, 2008 inspection of the Greenleaf facility at Neosho large inventories of pesticides were transferred from the Neosho site to a one acre warehouse located along the eastern side of South Business Highway 71 within the southern Pineville city limits. The warehouse is about 485 feet from the Elk River. Pesticides discovered on inventory at the Pineville site included hundreds of pallets of mixed dry formulation pesticides still packaged in their original market containers. Many of the containers or bags were partial containers that had been broken or torn and were leaking their contents. A significant portion of the warehouse floor was covered with small amounts of spilled dry pesticides and dry fertilizers. Many pallets held loose or spilled granular pesticides and broken bags, as well as undamaged pesticide bags. I estimated that at least 60% of the warehouse storage space was used to store pallets of pesticide stacked up to three and four pallets high in some areas. The Pineville warehouse appeared to be about as big a mess as the Neosho facility was found to be during our initial inspections in January. Empty pesticide containers, a pallet scale and empty one ton capacity supersacks offered evidence of an active debagging and repackaging operation. Additionally, customer orders for pesticides were posted in plain site near the scale.

Mr. Robert Applegarth, Pineville Greenleaf employee and acting Site Manager said he had no idea of how many pounds or how many pallets of pesticide containers were stored at the Pineville warehouse. He confirmed that the pesticides now stored at the Pineville site had been stored at the Neosho site during the time of our January, 2008 inspection. Mr. Applegarth admitted that since his arrival Greenleaf had been debagging individual containers and repackaging pesticides into one ton capacity supersacks at the Pineville site. He said they had produced only five or so individual Greenleaf registered pesticides, but that he did not know the number of orders filled or the quantities of pesticides produced. Mr. Applegarth admitted that no receiving, inventory, production or shipping records were maintained for the pesticide production activities at the Pineville site. He said he did not know if the site had applied for or received an EPA establishment number. The site does not have an EPA establishment number.

According to Mr. Applegarth, he typically receives an order for a particular Greenleaf registered pesticide he and other Pineville Greenleaf employees search through the pallets stored in the warehouse looking for broken bags of the Wal-Mart vendor pesticides identified on a Greenleaf product source list and the bags are dumped into a supersack for transfer to Neosho Greenleaf. Mr. Applegarth said he usually writes the Greenleaf product EPA registration number on one of the supersack straps, but that no Greenleaf pesticide labels or labeling is used to identify the repackaged pesticide. He stated that the net contents are not listed on the supersack, but one of the empty vendor (original market container) bags is thrown into the supersack for identification purposes. He reported that Pineville Greenleaf does not ship or deliver repackaged pesticides to customers, but the pesticides are only delivered to Neosho Greenleaf. Mr. Applegarth stressed that pesticides produced at Pineville Greenleaf are fertilizer with weed killer pesticide products and no insecticides have been produced. During the inspection at Pineville Mr. Shannon Weathers of HAZ-M.E.R.T., Inc. of Rogers, Arkansas arrived and monitored the inspection. HAZ-M.E.R.T., Inc. is a RCRA contractor and consultant for Greenleaf.

We visited the Neosho Greenleaf facility on April 22, 2008 to monitor the status of the January, 2008 SSUROS, as well as to document violations discovered at Pineville. We met with Operations Manager, Mr. Ralph Kunz and again with Mr. Weathers and another representative of HAZ-M.E.R.T., Inc. Mr. Kunz admitted that since February 18, 2008 when he was hired to manage Greenleaf at Neosho and supervise the firm's operations at Pineville the firm has produced pesticides under EPA's 100% Repack Exemption through the process described by Mr. Applegarth. Mr. Kunz reported that repackaged supersacks of pesticides and pesticide/fertilizer products are produced at both Pineville and at Neosho. He said these pesticides are produced from partial containers and damaged containers received by the firm prior to January 8, 2008 from Wal-Mart Return Centers. He said Greenleaf is careful to follow the Greenleaf pesticide product source list to maintain compliance with the requirements of the Greenleaf EPA registrations. Mr. Kunz said full, fully labeled undamaged pesticide containers have been sold to Overstock Freight of Independence, Missouri and distributed to the Overstock Freight warehouse in Lamar, Missouri. According to Mr. Kunz, the repackaged pesticide supersacks are not labeled, but that he prints out a pesticide label stored on his computer and provides the label to the customer at delivery. He said the net contents are not listed on the label or on the supersack container, but that the weight of the order is listed on a counter sales ticket at the time of delivery. The counter sales ticket is the only record of pesticide production and distribution. Mr. Kunz said there is no way he can determine which supersacks were produced at Pineville and which were produced at Neosho. He admitted that routine pesticide producer records are not maintained. Mr. Kunz reported that all of the repackaged bulk supersacks were sold and distributed to local farmers for application to their farm pastures. Additionally, Mr. Kunz said Greenleaf has distributed or given away many partial pesticide containers and broken or leaking pesticide containers to local retail customers since February 18, 2008. He said no records were maintained regarding distribution of the partial pesticide containers that had been given away. He said at least 300 pallets of mixed products, including pesticides from Wal-Mart Return Centers were stored at the Neosho facility and had not yet been sorted through. Mr. Kunz stated he had no idea how many pounds of pesticides remained stored at the Neosho site.

We reviewed and collected 33 pesticide delivery tickets or sales invoices recording distribution of at least nine different Greenleaf pesticide products. Labels of the nine pesticides were also collected. Sales of

fertilizers and pesticides were recorded in quantities from one or two tons up to seven and one half tons per consignee, respectively. The names of consignees posted at Pineville Greenleaf were found on some of the sales invoices. Mr. Kunz indicated that pesticides described on the sales tickets were produced by Greenleaf at either the Pineville or Neosho sites. He stated that in some cases the supersacks were dumped into the customers dry fertilizer spreader cart for immediate application to pastures.

We attempted to inspect the pesticides placed under SSURO in January, 2008. Mr. Kunz stated that the pesticides under SSURO had been moved about inside the main warehouse (Building No. One) at least four times. He also affirmed that all of the pesticides placed under SSURO remained stored at the Neosho main warehouse. Ten of the 42 separate pesticides placed under SSURO could not be identified or found. Many of the pesticide bulk bins had lost their small Greenleaf identification signs, since the January visit. Photographs stored on CD were successfully used in an effort to identify several of the unidentified containers and bulk bins. Of particular interest was one pallet of 30/30 pound bags of ANT, FLEA & TICK KILLER, upon which I had affixed the EPA federal SSURO notice form and attached pesticide product list. This pallet would not be found, but the SSURO notice and product list was found taped to a pallet of pesticides that had not been placed under SSURO during the January visit. This pallet contained about 2000 pounds of debagged bulk pesticides that had not been offered or held for sale or distribution and therefore not placed under SSURO. However, this pallet and many others were marked with the letters "SS" to signify they had been placed under the SSURO. Many of the pallets displaying the "SS" were not a part of the inventory placed under SSURO in January. Mr. Kunz did not offer an explanation of the whereabouts of the ten missing pesticides placed under SSURO. He refused to speculate on their possible location.

In summary pesticide storage conditions found at the Neosho Greenleaf facility were improved, but the Pineville warehouse was nothing short of a mess. Reportedly, there have been improvements in pesticide manufacturing practices and labeling, but no pesticides that were packaged, labeled and released for shipment were available for inspection. Records maintenance and routine pesticide producer GMPs have not been followed. Greenleaf fertilizers and pesticides registered for turf or home lawn use have routinely been sold to farmers for agricultural use. Numerous pesticide production and distribution violations were documented. Greenleaf appears in part to be little more than a pesticide recycling operation established to process RCRA regulated pesticide wastes generated at Wal-Mart retail stores into salable products at discount prices.

I have not visited Southwest Missouri area retail agricultural chemical and fertilizer dealerships, but I am certain representatives of the various regulatory divisions of the MDA and other agencies have maintained routine inspection schemes at those businesses to ensure compliance with laws and regulations, as well as to safeguard Missouri farmers and consumers. The violative activities that have been documented during the January and April inspections at Greenleaf likely have had a negative impact on the competitive balance within the agricultural business sector of the area. Regulatory compliance ensures a level playing field for all competitors.

Gary Steiner



## **PRODUCER ESTABLISHMENT INSPECTION REPORT**

**Inspection No. 010808F184201**

Greenleaf, LLC  
13960 Palm Road  
Neosho, Missouri 64850  
EPA Establishment Number: 83893-MO-001

January 8, 2008

### **PERSONS INTERVIEWED AND INDIVIDUAL RESPONSIBILITIES:**

On January 8, 2008 I initiated a For-Cause Producer Establishment Inspection at Greenleaf, LLC of Neosho, Missouri. I presented credentials and Notice of Inspection to Mr. Robert Applegarth, Plant Manager. Mr. Applegarth has been employed in this capacity by Greenleaf, LLC since early August, 2007 and he is responsible for all of the daily activities of the firm. Mr. Applegarth was interviewed extensively throughout the inspection. He provided written statements and received the Receipt For Samples. I also presented credentials to Mr. Steven Hill, Counter Salesman. Mr. Hill's responsibilities include handling retail sales to the public and labeling. He was interviewed intermittently during the inspection. No other persons were interviewed on January 8, 2008.

I resumed the For-Cause inspection of Greenleaf, LLC on January 9, 2008. I presented credentials and Notice of Inspection to Mr. Tom Smith, Owner of Greenleaf, LLC. Mr. Smith is responsible for all of the firm's business activities and he is Mr. Applegarth's Supervisor. Mr. Smith is based at the firm's headquarters in Lowell, Arkansas. Mr. Smith is also the President and Owner of Roll Off Service, Inc. ( [www.rsi.cc/](http://www.rsi.cc/) ) and of Smith Trucking of Lowell, Arkansas. Mr. Smith was interviewed substantially during the early part of January 9, 2008. I also presented credentials Mr. David Harsh, Owner of Harsh Environmental of Fayetteville, Arkansas. Mr. Harsh is an environmental consultant specializing in RCRA hazardous material disposal matters. Mr. Harsh provides consulting services to both Greenleaf, LLC and to Roll Off Service, Inc. He was not interviewed.

On January 9, 2008 I presented credentials to Mr. Applegarth and to Mr. Hill, respectively. Mr. Applegarth was interviewed extensively throughout the day and Mr. Hill was interviewed intermittently. A written statement was collected from Mr. Applegarth. No other persons were interviewed on January 9, 2008.

This For-Cause inspection was conducted on referral from the U. S. Environmental Protection Agency (EPA). The purpose of the inspection was to document production and distribution of suspected misbranded and unregistered pesticides. I was accompanied

and assisted by Mr. Paul Bailey of the Missouri Department of Agriculture. This inspection was confined to the firm's 13960 Palm Road, Neosho, Missouri manufacturing, storage and distribution facility. Other Greenleaf, LLC locations were not inspected.

#### **HISTORY OF THE BUSINESS:**

According to Mr. Applegarth, Greenleaf, LLC began operations at the Neosho, Missouri facility situated at 13960 Palm Road in January, 2007 as a wholly owned division of Roll Off Service, Inc. of Lowell, Arkansas. Greenleaf, LLC headquarters and Roll Off Service, Inc. headquarters are both located at P. O. Box 1700, Lowell, Arkansas 72745. Reportedly, the Palm Road site was formerly operated as an 81 Lumber Company retail lumber yard. In addition to the Neosho Greenleaf, LLC facility, the firm operates a leased warehouse located within the Crowder Industrial Park at Neosho and has recently leased a manufacturing and storage facility located at Pineville, Missouri. Reportedly, the leased Neosho warehouse and the Pineville facility are currently used only for storage. Greenleaf, LLC also operates facilities located in Fayetteville, Arkansas and in Gentry, Arkansas. Mr. Applegarth indicated he is unaware of much of the firm's history and has little knowledge of the firm's business operations outside of Neosho.

Mr. Smith alleged that Greenleaf, LLC is a stand alone limited liability corporation operating under his personal or private ownership from headquarters in Lowell, Arkansas. Reportedly, Greenleaf, LLC was formed by Mr. Smith on an unknown date in 2007 in Lowell, where headquarters remain and manufacturing and distribution business operations were moved to the Palm Road facility near Neosho, Missouri during the summer months of 2007.

Greenleaf, LLC has no corporate officers. There have been no mergers or acquisitions and there are no related firms. The Neosho facility employs seven persons on a full time basis. Mr. Smith estimated total sales for calendar year 2007 at \$70,000. Pesticide related sales were unavailable.

The firm's legal council is the Klenda, Mitchell, Austerman & Zecher law firm of Wichita, Kansas. The law firm's phone number is (316) 267-0331. The firm's FIFRA regulatory consultant is Mrs. Mindy Becker of Lowell, Arkansas. Mrs. Becker's phone number is (479) 721-8551. The firm's RCRA regulatory affairs consultant is Mr. David Harsh of Harsh Environmental of Fayetteville, Arkansas. The phone number for Harsh Environmental is (479) 225-6366.

Greenleaf, LLC was established as a processor and distributor of damaged merchandise. According to Mr. Smith, the genesis of the firm occurred after Roll Off Service, Inc. was contracted by Wal-Mart Stores, Inc. (Wal-Mart) of Bentonville, Arkansas to dispose of miscellaneous trash and damaged merchandise. The damaged merchandise consisted primarily of bagged products originally stocked and offered for sale to consumers at Wal-Mart retail lawn & garden centers. The damaged merchandise included pesticides, as

well as non-pesticide lawn & garden goods, charcoal and bird seed. The damaged goods had been returned to the Bentonville Wal-Mart Return Center from Wal-Mart retail outlets located throughout the United States. In conjunction with Wal-Mart corporate officials in Bentonville Mr. Smith developed the Greenleaf, LLC business plan, referred to as the **Greenleaf Garden Center Recycling Program**.

Reportedly, the **Greenleaf Garden Center Recycling Program** was designed to provide recycling services to major retail "big-box" discount chain stores. This opportunity arose from the difficulty major retail chains experienced in disposal of large volumes of damaged and stressed merchandise from their lawn and garden retail display sections. It is the nature of such retail operations that many large product bags become damaged and therefore unsalable to the public. The Greenleaf, LLC recycling program was established to provide Wal-Mart and other potential customers with an alternative to disposal of unsalable, damaged and/or stressed merchandise, including pesticide products. At present Wal-Mart Stores, Inc. of Bentonville, Arkansas has been the only Greenleaf, LLC customer or supplier of damaged merchandise participating in the **Greenleaf Garden Center Recycling Program**.

#### **GUARANTEES AND LABELING AGREEMENTS:**

Mr. Applegarth admitted he had little to no knowledge of accepted industry standards pertaining to pesticide production, including manufacturing and labeling practices, inventory control and material handling, FIFRA regulatory affairs, compliance with the parameters of the firm's EPA pesticide registrations, manufacturing and registration agreements with other registrants, the firm's confidential statements of formula for each registration and the particular approved sources and suppliers of technical materials and pesticide producer records maintenance. Furthermore Greenleaf, LLC employs no personnel with this expertise at the Neosho facility. According to Mr. Smith, Greenleaf, LLC FIFRA regulatory affairs are the sole responsibility of Mrs. Mindy Becker, an outside consultant based in Lowell, Arkansas. Management and ownership of the firm demonstrated an inadequate understanding concerning the nature of pesticides and Best Manufacturing Practices (BMPs).

Reportedly, no guarantees have been received by the firm. However, Greenleaf, LLC and Wal-Mart Stores East, LP of Bentonville, Arkansas, a subsidiary of Wal-Mart Stores, Inc. entered into a written contract titled *PRODUCT RECYCLING AGREEMENT* (the "Agreement") dated October 9, 2006. The Agreement includes several guarantees pertinent to the firm's pesticide production activities.

Technical material pesticides used by Greenleaf, LLC to produce Greenleaf, LLC registered end-use pesticides consist solely of end-use homeowner or consumer type pesticides that are registered by other registrants and were produced by other manufacturers. These pesticides are received by Greenleaf, LLC packaged in their original market containers designed for retail purchase by consumer end-users. The registered end-use pesticides of several different pesticide registrants are represented in

the inventories sourced by Greenleaf, LLC for use in production of Greenleaf, LLC pesticide products. In practice the firm sources other registrants' end-use pesticides packaged in consumer market containers for manufacturing purposes. No conventional technical material or manufacturing use pesticides are sourced.

Allegedly, Greenleaf, LLC registered pesticides have received EPA approval for production under EPA's 100% Repack Exemption. The pesticides sourced by Greenleaf, LLC and used in production of Greenleaf, LLC end-use pesticides are not manufacturing use pesticides registered and labeled for the purpose of formulation into end-use pesticides. These technical material pesticides are not received from the original registrants or from the pesticide manufacturers. To date all of the pesticides received by Greenleaf, LLC and subsequently used by the firm to produce Greenleaf, LLC pesticide products have been received from Wal-Mart Stores, Inc. In this regard Greenleaf, LLC entered into the *PRODUCT RECYCLING AGREEMENT* with Wal-Mart. The Agreement allows Greenleaf, LLC access to end-use pesticides and other damaged merchandise accumulated by Wal-Mart Return Centers that were returned from local Wal-Mart retail stores. The Wal-Mart Return Centers are located at the following six regional sites:

#### **Wal-Mart Return Centers**

Bentonville, Arkansas  
Indianapolis, Indiana  
Las Vegas, Nevada  
Waco, Texas  
Macon, Georgia  
Johnstown, New York

The pesticides accumulated by the Wal-Mart Return Centers were initially returned by local Wal-Mart stores in the United States to the respective regional Return Centers for disposal and/or recycling purposes. Under the *PRODUCT RECYCLING AGREEMENT* these returned pesticides have been shipped to Greenleaf, LLC from the Wal-Mart Return Centers on a routine basis for the purpose of remanufacture or recycling into Greenleaf, LLC pesticide products, via the **Greenleaf Garden Center Recycling Program**. Pesticides distributed by the Wal-Mart Return Centers to Greenleaf, LLC have so far included over 3,000,000 pounds of solid and liquid pesticides. During the first few days after implementation of the Agreement in January, 2007 a reported 76 trailer loads of damaged merchandise, including many pallets of pesticides was received by the Neosho Greenleaf, LLC facility. Reportedly, solid or dry dust and granular pesticide formulations were anticipated to be received by Greenleaf, LLC, but many gallons of liquid pesticides were also included in the shipments from the Wal-Mart Return Centers.

According to Mr. Applegarth, the sheer volume of the goods received at the beginning of the **Greenleaf Garden Center Recycling Program** was overwhelming. Receipt of pesticides by Greenleaf, LLC from Wal-Mart Return Centers under the Agreement is continuing on a routine basis.



Upon delivery to Greenleaf, LLC the returned pesticides, still packaged in their original market containers are stored in one of three warehouses on site. Under the Agreement with Wal-Mart, Greenleaf, LLC is required to remove all pesticides from their original market containers of the original registrants before distribution to Greenleaf, LLC consignees as Greenleaf, LLC products. After arrival these pesticides are eventually decanted or debagged from their original market containers and are placed or dumped into bulk pesticide bins. It has been common practice at Greenleaf, LLC to comingle the finished pesticide products of several different registrants and different trade names, as well as different active ingredient formulations into the same bulk bin. In practice herbicide products were comingled with other herbicides and insecticide products with other insecticides. As a result, many bulk bins hold a blend of different active ingredients. The bulk bins vary in capacity from 50 pounds up to 50,000 pounds, with most bins holding between 200 and 3,000 pounds. Gaylord totes are widely used as pesticide bulk bins at Greenleaf, LLC. The firm's bulk pesticides are routinely offered for sale and distribution in bulk without complete pesticide labeling. Most of the bulk pesticide bins display only hand lettered signs listing trade names and the price per pound. Reportedly, pesticide labels were available at the firm's retail sales counter and copies of pesticide labels were provided to retail customers. According to Mr. Applegarth, Greenleaf, LLC intends to use the Pineville, Missouri manufacturing facility, formerly operated as a charcoal briquette bagging factory to re-bag dry pesticides for distribution on a more professional basis.

A limited amount of the firm's bulk pesticide inventory has been repackaged into Greenleaf labeled containers and offered for sale and distribution. The containers vary from two pound bags to 21 pound pails and up to 30 pound bags. The labeling displayed on the containers was limited only to small stickers normally bearing only the trade name, net contents and in some cases a manufacturer's identification statement. The firm's repackaged pesticide containers are not labeled with complete pesticide labeling. Reportedly, copies of pesticide labels were provided to retail customers at the time of sale only. Pesticide labels held at the retail sales counter and labels held in the firm's label or registration file did not list EPA registration numbers or net content statements. Greenleaf, LLC management and sales personnel did not demonstrate adequate knowledge concerning appropriate pesticide labeling procedures.

Reportedly, Greenleaf, LLC pesticide products are backed by a "100% Customer Satisfaction Guarantee", according to Mr. Applegarth. If the customer is not satisfied the pesticide is replaced at no cost to the customer.

Greenleaf, LLC management and personnel demonstrated very limited knowledge of the firm's EPA pesticide registrations. Mr. Applegarth indicated he had no knowledge of Confidential Statements of Formula (CSF) pertinent to any of the firm's EPA pesticide registrations. Personnel at the Neosho facility could not assure that Greenleaf, LLC pesticides were produced according to their respective CSFs. During the interview of Mr. Smith he affirmed that CSF information, as well as production authorizations and registration agreements with other registrants were the responsibility of Mrs. Becker. Mr. Smith indicated all such inquiries would have to be directed to Mrs. Becker. Greenleaf,

LLC management and ownership were unaware of details regarding specific authorizations potentially received from other pesticide registrants, whose end-use pesticides were sourced as technical materials by Greenleaf, LLC. However, Mr. Smith believes Greenleaf, LLC has received written authorizations from all of the registrants of all of the pesticides the firm has de-bagged and recycled or converted to Greenleaf, LLC end-use pesticides. He affirmed that Mrs. Becker maintains all contracts and correspondence with the registrants and no copies are maintained at the Neosho facility.

Initially, only a few pesticide labels could be found on file and identified as current labeling for active Greenleaf, LLC products. However, before the inspection was concluded a pesticide label file was identified by Mr. Applegarth and a total of 22 different pesticide labels were discovered in the file. According to Mr. Applegarth, the 22 labels represented 22 EPA pesticide registrations he believed to be current EPA approved labels for all of the Greenleaf, LLC pesticides currently registered. The file was identified and the firm's pesticide registration database. Many of the pesticide labels in the firm's registration database did not list EPA registration numbers or net contents statements. Labels that listed registration numbers displayed EPA approval stamps. All of the labels in the database were photocopies of proposed or approved labels. The following is a list of the pesticide labels found in the firm's registration file and the EPA registration numbers believed to correspond to the registrations:

<b>Greenleaf Pesticide Trade Names</b>	<b>EPA Reg. No.</b>
FERTILIZER WITH WEED CONTROL	83893-1
LAWN FERTILIZER WITH WEED CONTROL	83893-2
LAWN INSECT KILLER GRANULES (2% SEVIN)	83893-3
LAWN & GARDEN INSECT CONTROL (.25% Permethrin)	83893-4
LAWN & SOIL INSECT KILLER	83893-5
FIRE ANT KILLER & PREVENTER BAIT	83893-6
FAST KILL FIRE ANT MOUND DESTROYER	83893-7
ST. AUGUSTINE LAWN WEED & FEED	83893-8
LAWN & GARDEN 5% DUST	83893-9
LAWN & GARDEN 10% DUST	83893-10
LAWN INSECT CONTROL (Bifenthrin .115%)	83893-11
INSECTICIDE GRANULES (Permethrin 0.25%)	83893-12
LAWN FUNGUS CONTROL	83893-13
WEED & FEED	83893-15
WEED & FEED II	83893-16
LAWN FERTILIZER WITH SUMMER INSECT PROTECTION	83893-17
LAWN INSECT KILLER (.1% Deltamethrin)	83893-21
FERTILIZER WITH INSECT CONTROL	83893-22
LAWN FERTILIZER WITH CRABGRASS PREVENTER	83893-23
LAWN FERTILIZER WITH CRABGRASS PROTECTION	83893-24
LAWN FERTILIZER WITH MOSS CONTROL	83893-25
LONG LASTING INSECT KILLER	83893-XXX

According to Mr. Applegarth, Greenleaf, LLC has not yet produced all of the pesticides included within the firm's registration database. Most of the pesticide produced and distributed by the firm was limited to Greenleaf FERTILIZER WITH WEED CONTROL (EPA Reg. No. 83893-1). An estimated 1,650,000 to 2,050,000 pounds of FERTILIZER WITH WEED CONTROL has been produced and an estimated 1,600,000 to 2,000,000 pounds have been sold and distributed during 2007. All sales of this pesticide were reported to have been in bulk.

An estimated 31,000 pounds of Greenleaf FIRE ANT KILLER & PREVENTER BAIT (EPA Reg. No. 83893-6) was produced in 2007. Sales and distribution were reported to have been estimated at 1,000 pounds or less. Several other pesticides have been produced by Greenleaf, LLC, but trade names used by the firm do not corresponded to trade names listed on the labels within the firm's registration database. Production and distribution of Greenleaf ANT, FLEA & TICK KILLER during 2007 was reported, but no such label was found in the firm's pesticide registration database.

Production and distribution of several liquid herbicide products was reported in 2007, although Greenleaf, LLC admittedly held no EPA registrations for liquid pesticide formulations. The firm's label file or registration database held no labeling for liquid pesticides. No labels were available for liquid Weed Killer, Roundup or for Glyphosate herbicides. Greenleaf, LLC produced and distributed of the following liquid pesticides was during 2007:

#### **Greenleaf Trade Names**

ROUNDUP  
18% ROUNDUP  
41% ROUNDUP  
51% ROUNDUP  
51.2% ROUNDUP  
READY TO USE ROUNDUP  
ROUNDUP READY TO USE  
WEED KILLER  
2% WEED KILLER  
18% WEED KILLER  
21% WEED KILLER  
50% WEED KILLER  
51% WEED KILLER

Reportedly, the firm holds no subregistrations of other registrant's pesticides. Greenleaf, LLC has no contract manufacturing agreements with other firms. Confidential Statement of Formula information was not maintained at the Neosho facility and personnel involved with pesticide production and distribution demonstrated inadequate knowledge of registration matters. Mr. Applegarth indicated Greenleaf, LLC has applied for a total of 45 additional pesticide registrations.

**CONSUMER COMPLAINTS:**

Reportedly, no pesticide related complaints have been received by Greenleaf, LLC and no file is maintained. Ownership and management have no knowledge of any reports or incidents of unreasonable adverse effects. There have been no facility related complaints.

**MANUFACTURING CODES:**

The firm does not use a batch code to identify specific batches of finished pesticides. No batch or production records are maintained. The firm does not use a lot code system to identify finished pesticide products in channels of trade. Greenleaf, LLC has not used or applied any complete EPA approved pesticide labeling to identify any of the finished pesticides offered for sale or distribution or any complete labeling to any pesticides sold and distributed by the firm.

**EXPERIMENTAL USE PERMITS:**

None are held by Greenleaf, LLC and none are anticipated. However, the firm reports that application for an additional 45 pesticide registrations are either anticipated or are under review by EPA.

**STORAGE CONDITIONS:**

The Neosho Greenleaf, LLC facility is located approximately two miles south of Neosho just northwest of the intersection of Business Highway 71 and Palm Road. The site encompasses approximately five and one half to six acres. Three large warehouse buildings are situated on the property. The buildings have not been constructed within secondary containment. A small drainage pond is located at the extreme northwestern corner of the property. The pond reportedly retains all of the surface water drainage from the entire site. The pond has approximately 30,000 square feet of surface area.

The main building (designated Building No. 1) located on the eastern side of the property houses the firm's offices, retail trade, product display and customer service area, the firm's pesticide production areas, finished pesticide product storage area, and a portion of the technical material storage areas. Reportedly, there are no open floor drains in the structure. Building No. 1 has about 22,000 square feet of space in two large rooms under roof. An estimated 20,000 square feet were utilized for pesticide storage. Outside of the eastern side of Building No. 1 an overhanging roof shelters an additional 2,000 square feet of storage space. Pesticides and other non-pesticide materials are stored on pallets outside under the overhang roof.

The smallest of the three buildings (designated Building No. 2) located near the center of the site is an approximately 6,800 square feet warehouse. Building No. 2 is used to store

technical material pesticides that remain packaged in their original market containers and have not yet been processed. These pesticides are not held for sale or distribution and are intended to be decanted and used for remanufacture into Greenleaf, LLC finished pesticides. Reportedly, Building No. 2 is currently used only to store pesticides.

The largest building at the Neosho site (designated Building No. 3) is located at the western side of the property. This structure is an open sided warehouse covering approximately 24,000 square feet of space. Building No. 2 is currently used to store technical material pesticides and other damaged non-pesticide merchandise. An estimate regarding how much of the storage space within Building No. 3 is used to store pesticides was unavailable.

Much of the open area around Building No. 3, as well as the area between Building No. 3 and Building No. 2 was covered by hundreds of pallets of materials, including an unknown quantity of pesticides. However, most of the damaged merchandise stored outside on the open ground was non-pesticides materials.

In general the pesticide storage conditions observed at Greenleaf, LLC were considerably objectionable. Finished bulk pesticides, cat litter, bird seed, fertilizers, charcoal and other non-pesticide products were stored in open bulk bins within close proximity. Labeling of the finished or salable pesticide products was minimal. Storage of finished pesticides held for sale and distribution and of technical material pesticides that were not held for sale was disorganized and haphazard. There appeared to be an absence of adequate inventory control. Generally, housekeeping and organization was inadequate. Evidence of bulk material spills, including pesticide spills was widespread. Bulk material handling procedures were careless.

In the western section of Building No. 1 the firm had no isolated or separate area established for pesticide debagging. Manufacturing and bulk pesticide handling processes were carried out in open areas of the main retail product display area where customer access was unrestricted. During the inspection a Greenleaf, LLC employee was observed dumping market original containers of Sevin (Carbaryl) insecticide dust into a Gaylord tote in an area of Building No. 1 that was routinely accessible by customers. A small cloud of dust could be seen rising out of the bin. Visitors routinely enjoy full and unlimited access to all areas of Building No. 1. Any member of the public needing to visit the firm's restrooms was required to pass near open bulk pesticide bins. No warning signs were found posted to prohibit public access to any part of the facility. Evidence of minor pesticide spills was observed in the customer service area and strong pesticide type chemical odors were observed throughout the structure.

In Building No. 1 finished pesticides that had already been decanted were displayed and held for sale and distribution in uncovered open bins and Gaylord totes. The pesticide bins displayed only minimal labeling and in some cases no labeling. Complete pesticide labels were not used to label any of the bulk pesticides and packaged pesticides that had been offered for sale and distribution. Customers were allowed unlimited access to all of the bulk pesticides stored in Building No. 1. On January 9, 2008 an estimated 93,100

pounds of pesticides were held for sale and distribution. Almost all of the salable inventory was displayed in open bulk bins and Gaylord totes. Scores of technical material pallets were also stored in the Building No. 1. The pallets held thousands of pounds of pesticides that had not yet been decanted from the original market containers. The technical material pesticides were not held for sale.

Pesticides were also stored in the eastern section of Building No. 1. Empty pesticide containers were found scattered about on the floor and were left on pallets of unprocessed pesticides. A trash dumpster filled with empty pesticide and fertilizer bags to the point of overflowing had been placed near four large bulk material bins. Two of the bulk bins held fertilizers and two bulk bins held pesticides. The large bulk bins were essentially large piles left from debagging hundreds of market containers of pesticides and fertilizers. The piles or bulk bins were open and accessible by the public. An estimated 70,000 to 80,000 pounds of pesticide were stored in two open piles. No pesticide labeling was displayed on or near the large pesticide bulk bins. The floor of the eastern section of Building No. 1 exhibited evidence of pesticide spills that had been left unattended. Strong chemical odors were observed in this area of the building, as well. A similar amount of bulk dry fertilizer was stored in the two other large bulk bins.

Outside of the eastern end of Building No. 1 several dozens of pallets of damaged merchandise was stored under the roof overhang. Many pallets of technical material pesticides were stored in this area. The pallets were covered with plastic sheeting or shrink-wrap. No objectionable storage conditions were found in this area.

Pesticide storage conditions inside of Building No. 2 were similarly haphazard and extremely crowded. Access appeared to be limited, although no warning signs were posted to prevent entry by customers. The warehouse building was filled to near capacity with hundreds of pallets of pesticides. The pallets were stacked three to four pallets high and only one narrow aisle was left down the center of the warehouse to allow walking access between stacks of pallets. Individual containers could not be inspected due to the overcrowded storage conditions. No pesticide spills were found and no unusual chemical odors were observed in Building No. 2. However, very little of the warehouse floor was visible due to the overcrowded storage conditions. Some of the pesticide inventory consisted of liquid formulations. Mr. Applegarth affirmed that pesticides stored in Building No. 2 were not held for sale, but were intended for use as technical materials in manufacture of Greenleaf, LLC end-use pesticides. Reportedly, the liquid pesticides were intended for disposal only. Several drums of decanted liquid pesticides were found in Building No. 2. The drums were reportedly intended for disposal.

Pesticide storage conditions found at Building No. 3 were somewhat worse than those found at Building No. 2. Material storage was haphazard and unorganized. Access appeared to be limited to Greenleaf, LLC personnel, although there were no signs posted or any other impediments to public access. The contents of Building No. 3 were not inspected in detail due to the extremely crowded storage conditions. There appeared to be no entry into the structure, except by crawling over the top of pallets. No aisles were left to allow easy access to the materials stored within. Approaches to the building were

blocked by pallets stored one against the other on the ground on all sides of the structure. However, the warehouse was open along its entire eastern and western sides offering a view of the pallets stored inside. Building No. 3 was reportedly used to store technical material pesticides, as well as non-pesticide damaged merchandise. This warehouse was packed tightly with hundreds of pallets of materials. Many of the pallets appeared to be weather worn from exposure to the outside elements. Mr. Applegarth indicated pesticides stored inside Building No. 3 were not for sale and were held for manufacturing purposes only.

Approximately one to one and one half acres of open area around the outside of Building No. 3 and between Building No. 3 and Building No. 2 were covered with hundreds of pallets of damaged merchandise. No isles were left between the pallets and they could be inspected only by crawling over the top of the pallets. The pallets stored outside were not inspected individually or in detail. The pallets were packed tightly one against another. At least one pallet stored outside was discovered to be holding pesticides. Several bags of Lilly Miller brand MOSS OUT (EPA Reg. No. 33116-2) were found on a pallet situated outside on the open ground south of Building No. 3. According to Mr. Applegarth, pallets holding pesticides had been moved inside of one of the three warehouse buildings recently after a regulatory inspection by Missouri Department of Natural Resources (MDNR). He indicated it was the intention of Greenleaf, LLC to store all pesticide products inside one of the three structures.

Reportedly, unknown inventories of technical material pesticides are also stored in the firm's leased warehouse facilities located in the Neosho Industrial Park and at the Pineville, Missouri site. The pesticides stored in these warehouses are not offered for sale or distribution, but are intended solely for re-manufacture into Greenleaf, LLC pesticides. These facilities were not subjected to inspection during this inspection visit. No pesticides are stored at the Gentry, Arkansas and Fayetteville, Arkansas locations, according to Mr. Applegarth.

#### **SITE SECURITY:**

Greenleaf, LLC operates normal business schedule of six/12 hour days, Monday through Saturday. Dailey work shifts are staggered. Outside entrances into Building No. 1 are locked after business hours. The entire perimeter of the site is enclosed with a metal chain-link fence with a gated main entrance on the southern Palm Road side. No guards are employed and no burglar alarms are used. However, at least four closed circuit video cameras are trained on key points of the site on a 24 hour/seven days per week basis. The closed circuit video feed is made available to Wal-Mart's pesticide vendors. No improvements to site security are anticipated.

## **PROMOTION AND DISTRIBUTION:**

Greenleaf, LLC employs no outside salesmen and utilizes only minimal advertising. Advertising is limited to simple hand bills and brochures posted at the retail sales counter inside of Building No. 1. The firm does not host an internet website. Currently, sales of Greenleaf, LLC pesticides are limited to retail walk-up trade, including homeowner or consumer type customers and local farmers. Reportedly, the firm's long range plan is to market Greenleaf, LLC pesticide products on a wholesale basis to big box discount retail chain stores throughout the United States.

## **DISPOSAL:**

Reportedly, liquid pesticides received from Wal-Mart Return Centers have been disposed of through RCRA regulated hazardous waste disposal. The pesticide wastes were transferred by Giant Resource Recovery to an MXI, Inc. disposal site at Abington, Virginia. A total of 88/55 gallons of decanted liquid pesticide wastes were disposed of in 2007. Disposal records were maintained on site. An estimated 1,100 to 1,500 gallons of liquid pesticides remain to be disposed. The remaining liquid pesticide inventory will be decanted and poured into 55 gallon recovery drums for hazardous waste disposal. Empty liquid pesticide containers left from the decanting process were not rinsed before they are discarded into trash dumpsters for disposal with other miscellaneous trash.

Dry formulation pesticides are debugged and processed or remanufactured into Greenleaf, LLC pesticide products for sale and distribution. The empty pesticide containers are placed into trash dumpsters and disposed of with other miscellaneous trash.

Miscellaneous trash is placed into dumpsters. The contents of the dumpsters are collected by Roll Off Service, Inc. of Springdale, Arkansas. The miscellaneous trash, including pesticide containers is disposed of at a sanitary landfill operated by Waste Management, Inc. near Tontitown, Arkansas.

Dry formulation pesticide spills are swept up and recovered for re-work and placement into bulk pesticide finished product bins. Reportedly, there have been no major pesticide spills.

## **CHILD RESISTANT PACKAGING:**

The firm uses plastic bag pesticide containers that are reported to be constructed within Child Resistant Packaging (CRP) guidelines for finished product packaging. No CRP efficacy data is held on file at the Neosho facility. The firm also has used and was using one gallon plastic milk jugs to contain liquid pesticide held for sale and distribution.



## **DISCUSSION WITH MANAGEMENT/INVESTIGATOR'S SUMMARY:**

On January 8, 2008 discussion was primarily held with Mr. Robert Applegarth, Plant Manager and a brief interview with Mr. Seven Hill, Counter Salesman. On January 9, 2008 discussion was held with Mr. Tom Smith, Owner and with Mr. Applegarth. Mr. David Harsh of Harsh Environmental was present during a joint discussion with Mr. Smith and Mr. Applegarth, but he was not interviewed. Discussions with Mr. Applegarth continued throughout January 9, 2008 and Mr. Hill was interviewed minimally. A total of three written statements were collected from Mr. Applegarth.

During the initial discussion with Mr. Applegarth on January 8, 2008 he admitted his inexperience and lack of knowledge of all phases of the pesticide industry. He indicated he had already retired in 2007 after selling his southern Missouri trash disposal business when he received an offer from Mr. Smith to manage the Neosho Greenleaf, LLC recycling operation. According to Mr. Applegarth, Greenleaf, LLC had suffered under poor management during the early months of operation in 2007 and Mr. Smith needed someone he could trust to operate the business. He said he was hired by Mr. Smith to manage Greenleaf, LLC in August, 2007. Mr. Applegarth stated that he was hired, because he knew how to get work out of men and he knew how to operate a business in a fair and honest manner.

Mr. Applegarth's inadequate knowledge of a pesticide manufacturing operation was expressed in his fundamental misunderstanding of the definition of a pesticide. Mr. Applegarth said he believed an insecticide was a pesticide, but a herbicide was not. He reported that he had received very little guidance from Greenleaf, LLC headquarters or from Mr. Smith regarding BMPs pertinent to pesticide production activities. According to Mr. Applegarth, he had received little or no training and guidance concerning production protocols and raw or technical material input controls, compliance with CSF requirements, material handling and inventory control, pesticide labeling, records maintenance and regulatory affairs. Mr. Applegarth stated that Mrs. Mindy Becker, a regulatory consultant hired by Mr. Smith had provided some minimal guidance in these matters. He said Mrs. Becker had been instrumental in securing the firm's pesticide registrations from EPA.

At the beginning of the inspection Mr. Applegarth was unable to confirm Greenleaf, LLC's EPA establishment number. I initially requested a list of all active Greenleaf, LLC EPA pesticide registrations, copies of current bin labels and labeling and records of pesticide production. Mr. Applegarth indicated he was unable to comply with the request. He admitted that he had no previous experience in operation of a pesticide production facility and that he had very limited knowledge of pesticide registration and labeling matters. He said he was only aware of a few pesticide labels that had been used at Greenleaf, LLC. Mr. Applegarth reported that pesticide production records had not been kept. He stated that the Greenleaf, LLC Neosho facility had received such a huge volume of pesticide products and other damaged merchandise materials from Wal-Mart Return Centers in such a short time that it was impossible to control the situation. He described his predicament in management of Greenleaf, LLC as mind boggling.

Mr. Applegarth described Greenleaf, LLC as a processor and distributor of damaged merchandise, including pesticides from Wal-Mart lawn & garden centers. He said Wal-Mart is Greenleaf, LLC's only source of damaged pesticides, charcoal, bird seed, cat litter, fertilizer, potting soil, mulch and grass seed. According to Mr. Applegarth, just about any product that is routinely sold by a Wal-Mart lawn & garden center has been shipped to Greenleaf, LLC. He indicated that not all of the merchandise was damaged.

Mr. Applegarth explained that after Greenleaf, LLC was formed by Mr. Smith and the recycling agreement was implemented with Wal-Mart Stores, Inc. of Bentonville, Arkansas about 76 trailer loads of stressed or damaged merchandise were shortly received at the Neosho facility from regional Wal-Mart Return Centers. He said shipments of damaged merchandise, including pesticides continue to arrive on a routine basis. He stated that damaged lawn and garden center products returned from local retail Wal-Mart stores in the United States made their way to Greenleaf, LLC at Neosho. Mr. Applegarth estimated that approximately 3,400,000 pounds of pesticides had been received by Greenleaf, LLC from the Wal-Mart Return Centers since January, 2007. He estimated that about 1,000,000 pounds were insecticides and about 2,400,000 pounds were herbicides. Mr. Applegarth stated that only a few pounds of fungicide materials were received from Wal-Mart. He said materials received from Wal-Mart filled the site.

I requested pesticide receiving records and the firm's pesticide shipping records. Mr. Applegarth provided what he stated were the firm's receiving records. I reviewed and collected copies of Greenleaf *Incoming Shipment Check-In Sheet* forms. The documents recorded incoming loads of damaged merchandise from Wal-Mart Return Centers. The received materials were described only in terms of numbers of pallets. Detailed identification of individual pesticide products was not documented on the receiving record forms. Pesticide pallets were described as "Misc. Pesticides/Fertilizers" and as "Liquid Pesticides". No further identification was provided. The form also listed the location of the six Wal-Mart Return Centers, the origin of the shipment, the date shipped and date received by Greenleaf, LLC. I also reviewed and collected copies of a few random bills of lading. The bills of lading provided very little additional detail regarding incoming shipments of pesticides.

Mr. Applegarth affirmed that Greenleaf, LLC personnel immediately went about the job of emptying out bags (debagging) of lawn and garden end-use insecticide and herbicide products at the Neosho facility. He explained that under Greenleaf, LLC's agreement with Wal-Mart all containers of damaged merchandise received from Wal-Mart must be removed from their original market containers before they could be recycled into Greenleaf, LLC products for resale. Mr. Applegarth indicated no records were maintained by Greenleaf, LLC pertinent to the pesticides that were decanted after receipt from Wal-Mart and subsequently recycled or converted into Greenleaf, LLC pesticide products. He indicated he had no knowledge of any registration or production agreements with other pesticide registrants, whose end-use pesticides were sourced by Greenleaf, LLC as technical materials in the production of Greenleaf, LLC pesticides. Mr. Applegarth indicated he had no knowledge of Greenleaf, LLC Confidential Statements of Formula or whether the Neosho facility had complied with the

requirements of the CSF in production of any of the Greenleaf, LLC pesticide products. Mr. Applegarth admitted that pesticides of different registrations, different trade names and of different active ingredient formulations were decanted and dumped or comingled into bulk pesticide bins for sale and distribution to consignees as Greenleaf, LLC pesticides. He stated that some of the decanted pesticides had been repackaged into Greenleaf, LLC labeled containers for sale and distribution to customers.

Labeling displayed on finished or recycled pesticides held for sale and distribution by Greenleaf, LLC was limited to small hand lettered signs and small stickers. None of the pesticides displayed and held for sale and distribution were properly labeled with complete pesticide labeling. Mr. Applegarth indicated that full pesticide labels were kept at the firm's retail sales counter and labels were provided to customers only at sale or delivery. He said one label would be given to a consignee by Mr. Hill regardless of the number of containers included in the purchase and only one label for pesticides sold in bulk quantities. According to Mr. Applegarth, the labels were provided to customers only at the time of the sale. I reviewed labels filed at the sales counter discovered that the labels did not list EPA registration numbers or net contents statements. The labeling appeared to have been copied from proposed labels that had not yet received EPA approval. Mr. Applegarth indicated the firm's labeling practices was approved by Mrs. Becker.

Brief discussions were held with Mr. Hill on January 8 and 9, 2008 regarding labeling used to identify particular pesticides. Mr. Hill was unable to demonstrate his competence concerning pesticide labeling. He was unable to identify labeling for several pesticides that were offered for sale. It was apparent that Greenleaf, LLC pesticide labeling practices were haphazard and inconsistent. Mr. Applegarth stated that when the firm moves its pesticide debagging and production operation to the Pineville facility pesticide packaging and labeling will become more professional.

Mr. Applegarth estimated that Greenleaf, LLC has produced, sold and distributed less than 1,000 pounds of insecticide products and from 1,600,000 pounds to 2,000,000 pounds of herbicide products under Greenleaf, LLC registration and labeling. Mr. Applegarth affirmed that he believed most of the herbicide was sold and distributed under Greenleaf FERTILIZER WITH WEED CONTROL (EPA Reg. No. 83893-1) labeling and that most of the insecticide was sold and distributed under Greenleaf FIRE ANT KILLER & PREVENTER BAIT (EPA Reg. No. 83893-6) registration and labeling. Mr. Applegarth reported that relatively few inventories of the other Greenleaf, LLC registered pesticides were sold and distributed. However, no detailed pesticide shipping records were maintained. Mr. Applegarth indicated NCR copies of pesticide shipping or sales records were kept in small generic sales order books. Mr. Applegarth allowed me to review and collect copies of entries or sales invoices found in the sales order books.

The shipping/sales records were hand written, presumably at the time of sale. On many sales documents the consignee was not fully identified and/or addresses were not listed. Insufficient information was recorded on many of the firm's shipping documents. In most cases pesticide trade names were improperly or incompletely recorded. Many trade

names listed on sales records did not match the trade names listed on Greenleaf, LLC pesticide labels held on file at the facility. For instance sales of ANT, FLEA & TICK KILLER, ALL PURPOSE INSECT KILLER, TICK KILLER, BUG KILLER, and SEVIN DUST were recorded. The firm holds no registrations under these trade names. It is unlikely Greenleaf, LLC can complete an annual pesticide production report to EPA under the current standards of records maintenance.

Additionally, sales of liquid herbicides were recorded on many of the sales documents. Greenleaf, LLC does not hold registrations for any of the liquid pesticides listed. I discovered shipping/sales records listing the following trade names for liquid pesticide products:

ROUNDUP  
18% ROUNDUP  
41% ROUNDUP  
51% ROUNDUP  
51.2% ROUNDUP  
READY TO USE ROUNDUP  
ROUNDUP READY TO USE  
WEED KILLER  
2% WEED KILLER  
18% WEED KILLER  
21% WEED KILLER  
50% WEED KILLER  
51% WEED KILLER

Mr. Applegarth indicated that pesticides identified on sales invoices as ROUNDUP and WEED KILLER under liquid units of measure pertained to sales and distribution of repackaged containers of ROUNDUP herbicide.

According to Mr. Applegarth, the Greenleaf, LLC ROUNDUP herbicide sales were made from one gallon or smaller ROUNDUP market containers of the original registrant that were repackaged into unlabeled containers. He said he understood Greenleaf, LLC was not supposed to sell and distribute the liquid ROUNDUP herbicides. He said the liquid herbicides were originally intended to have been decanted and disposed of with other liquid pesticides. Mr. Applegarth admitted that some of the ROUNDUP and WEED KILLER liquid herbicide had been repackaged into one gallon milk jugs or into whatever container could be found for sale and distribution by Greenleaf, LLC. He affirmed that the ROUNDUP was sold and distributed without labeling.

I requested the firm's pesticide inventory records. Mr. Applegarth initially indicated that no inventory record was maintained. On January 8, 2008 he estimated an inventory of about 1,800,000 pounds of pesticides in dry formulations that remained packaged in original market containers and intended only for use as technical materials in the manufacture of Greenleaf, LLC pesticides. Mr. Applegarth estimated a liquid pesticide inventory of from 1,100 gallons to 1,375 gallons. He said the liquid pesticides were

intended solely for disposal. Mr. Applegarth did not provide an estimate of pesticides that had been decanted, placed in bulk bins or repackaged into Greenleaf stickered, but unlabeled containers and were currently held for distribution and sale. He estimated that about 30 pallets of pesticides were currently held for sale and distribution. I estimated approximately 93,100 pounds of dry formulation pesticides and one gallon of liquid pesticide was currently held for distribution and sale. I completed a Books & Records Maintenance form and a copy was given to Mr. Applegarth. I also provided a copy of the EPA publication *U. S. Small Business Resources* to Mr. Applegarth.

On January 9, 2008 during the joint discussion with Mr. Applegarth and Mr. Smith some new and/or conflicting information was offered by Mr. Smith. Mr. Smith indicated Greenleaf, LLC had only been in operation since about July or August of 2007 at the Neosho facility. Mr. Smith said total sales for 2007 were about \$70,000, with pesticide related sales unknown. Mr. Applegarth had previously estimated sales of Greenleaf FERTILIZER WITH WEED CONTROL alone at 800 to 1,000 tons at the price of \$150 per ton during the few months he served as Plant Manager. Mr. Smith indicated that Greenleaf, LLC pesticide recycling practices met with approval from both Wal-Mart and the pesticide registrants, whose pesticides were debugged and recycled or remanufactured by the firm. He specifically mentioned that a representative of The Scotts Company of Marysville, Ohio had visited the Neosho Greenleaf, LLC facility and expressed approval of the pesticide recycling activities occurring there. Mr. Smith stated that Mrs. Becker was in possession of information regarding the firm's EPA pesticide registrations and that she was in possession of production and labeling agreements with other firms. Mr. Smith explained the **Greenleaf Garden Center Recycling Program** and the firm's relationship with Wal-Mart.

A written protocol for the program was not provided. Mr. Smith explained the substance of the **Greenleaf Garden Center Recycling Program** is centered on receipt of damaged goods at the firm's Neosho facility. Upon arrival at the Palm Road site the damaged goods are still packaged in the original manufacturers' market containers. Greenleaf, LLC processes the merchandise by decanting or debugging the products into bulk bins. Greenleaf, LLC personnel subsequently repack the decanted merchandise into Greenleaf, LLC product containers. These products include many of the products typically marketed through a Wal-Mart Stores, Inc. Lawn & Garden Center. Products received and processed or remanufactured by Greenleaf, LLC include pesticides, fertilizers, seed, mulch, potting soil, "bird seed" and charcoal. During the interview with Mr. Smith he indicated he believed that insecticides were classified as pesticides, while herbicides and fungicides were not pesticides.

After the joint discussion ended Mr. Smith and Mr. Harsh left the Neosho facility. Mr. Applegarth then said he had found a pesticide label file. The file appeared to be a pesticide registration database. He allowed me to review and collect copies of 22 pesticide labels found in the label file. Many of the labels did not display EPA registration numbers or net contents statements. Mr. Applegarth identified some of the pesticides that had been produced by Greenleaf, LLC to the best of his knowledge. He stated that most of the herbicide produced, sold and distributed by Greenleaf, LLC was

sold under the Greenleaf FERTILIZER WITH WEED CONTROL labeling and that most of the insecticide product sold and distributed was sold under Greenleaf FIRE ANT KILLER & PREVENTER BAIT labeling. According to Mr. Applegarth, the two large pesticide bulk bins located in the eastern section of Building No. 1 held inventories of these two pesticides that were currently held for sale and distribution. He said the bulk bins held recycled pesticide that had been derived from debagged and comingled pesticide inventories Greenleaf, LLC received from Wal-Mart.

Mr. Applegarth estimated the bulk Greenleaf FERTILIZER WITH WEED CONTROL (EPA Reg. No. 83893-1) inventory totaled about 25 tons and was derived from hundreds of bags of several different registered herbicide products, including the following pesticides:

Trade Name	EPA Reg. No.
TURF BUILDER WITH PLUS 2 WEED CONTROL	538-282
TURF BUILDER WITH HALTS CRABGRASS PREVENTER	538-190
TURF BUILDER WINTERGUARD WITH PLUS 2 WEED CONTROL FALL WEED & FEED	538-282
WINTERIZER WEED & FEED	2217-827-538

Mr. Applegarth stated that other weed and feed fertilizer and herbicide products were likely comingled in the bulk bin of FERTILIZER WITH WEED CONTROL. He admitted that no production records had been maintained when Greenleaf, LLC employees debagged the registered end-use pesticides of other registrants and dumped the pesticides into the bulk bin. He said he was not certain whether any of these herbicide products were listed as sources of technical materials in the CSF for FERTILIZER WITH WEED CONTROL. According to Mr. Applegarth, approximately 800 to 1,000 tons of FERTILIZER WITH WEED CONTROL had been sold and distributed, mostly in bulk sales to local farmers for use on their pastures.

I collected a one pint/one pound pesticide formulation sample, Sample No. 010808F18420101 from the large bulk bin of FERTILIZER WITH WEED CONTROL. The dry granular material within the bulk bin appeared to have been derived from many different colors of granules. The granules appeared to have many different sizes and textures. Specifically, inert material granules sourced from corn cobs, fertilizer and clay were identified in the bulk bin. Contents of the FERTILIZER WITH WEED CONTROL bulk bin appeared to have been cross contaminated with multiple formulations. The sample was labeled and sealed at the time of collection. A duplicate sample was collected and prepared in the same manner and provided to Mr. Applegarth.

Mr. Applegarth estimated the bulk inventory of Greenleaf FIRE ANT KILLER & PREVENTER BAIT (EPA Reg. No. 83893-6) in the bulk bin at ten tons. I estimated the bulk insecticide bin held approximately 15 tons of granular material. He indicated the bulk insecticide derived from hundreds of individual bags of several different registered insecticide products, including the following pesticides:

Trade Name	EPA Reg. No.
ORTHO MAX INSECT KILLER FOR LAWNS	279-3240-239
SCOTTS GRUB-EX	432-1339-538
GARDEN TECH SEVIN LAWN INSECT GRANULES	432-1212-71004
ELIMINATOR ANT, FLEA & TICK KILLER	28293-329-59144

Mr. Applegarth stated that possibly several other insecticide products were comingled in the bulk bin of Greenleaf FIRE ANT KILLER & PREVENTER BAIT. He admitted that no production records had been maintained when Greenleaf, LLC employees debugged the registered end-use pesticides of other registrants and dumped the pesticides into the bulk bin. He said he was not certain whether any of the insecticide products were included on the CSF for FIRE ANT KILLER & PREVENTER BAIT.

Initially Mr. Applegarth indicated he was not sure if any FIRE ANT KILLER & PREVENTER BAIT pesticide had been sold and distributed. Later he stated that most of the insecticides produced and distributed by Greenleaf, LLC has been under FIRE ANT KILLER & PREVENTER BAIT labeling. Mr. Applegarth also said he believed much of the insecticide packaged, sold and distributed as Greenleaf ANT, FLEA & TICK KILLER was actually taken from the bulk bin of FIRE ANT KILLER & PREVENTER BAIT. I collected a one pint/one pound pesticide formulation sample, Sample No. 010808F18420102 from the bulk bin of FIRE ANT KILLER & PREVENTER BAIT. The sample was labeled and sealed at the time of collection. A duplicate sample was collected and prepared in the same manner and provided to Mr. Applegarth.

The pesticide formulation samples collected during the Greenleaf, LLC inspection were delivered on January 23, 2008 to the University Hygienic Laboratory (UHL) satellite laboratory in Ankeny, Iowa for transfer to and analysis at the UHL laboratory at the University of Iowa in Iowa City, Iowa.

On January 9, 2008 Mr. Applegarth also indicated he had found a pesticide inventory record and he provided a copy for review and collection. The documents appeared to be a more detailed summary of the Incoming Shipment Check-In Sheets used as receiving records. This record listed pallet numbers, stock numbers, trade names, EPA registration numbers, active ingredient descriptions, and quantities. However, no dates were listed on the summary to connect the documents to specific receiving records. Included in this file of documents were three hand written sheets that appeared to constitute some type of production record for liquid pesticides.

Page one of the hand written document was dated September 6, 2007 and was titled "Liquid Inventory". This document stated "Jugs Sent To "Hill" (presumably Mr. Steven Hill) and that "39 Jugs Peeled & Ready For Reuse". A description of the inventory listed several liquid pesticides. The trade names did not match the trade names from the firm's pesticide registration database. Page two of the document was also headed "Liquid Inventory". The statement "Jugs completed & Brought To Showroom" was written above a list of liquid pesticides. Again the trade names listed did not match the trade

names of the firm's pesticide registration database. Page three was dated September 19, 2007 and appeared to describe pesticide repackaging activities that had occurred. After the salutation "Derrick & Josh" the text stated "Filled 3 pest Barrels Sorted 3 Pallets \* Filling Barrels W/Ready To Use And Putting In Store As Weed Killer Ready To Use %?". "Pallet of Ready To Use (Needs Labeled & Rejugged) 32 Boxes W/4 To 6 jugs In Each Box". "4 Jugs 50.2%". "4 Boxes 18% - W/4 To 16 Jugs In Each Box". "New Products - Liquid All Purpose Plant Food" "Skeeter Begone Ready To Use 2.5% Permethrin" Liquid Lawn Fertilizer 29-2-3".

During inspection of the facility Mr. Applegarth stated that all of the pesticides that had been debugged from original market containers and placed for display in unlabeled bulk bins were offered for sale and distribution. Most of the bulk bins displayed small hand written signs listing a trade name and a price per pound, but little else. I observed that none of the salable pesticide inventory offered for sale and distribution at Greenleaf, LLC was labeled with pesticide labeling. Additionally, many bulk pesticide bins appeared to have been filled with granular materials from different formulations. I determined that all of the firm's salable pesticide inventory was misbranded. I suspected that all of the inventory was unregistered. I placed all of the pesticide inventory offered for sale and distribution by Greenleaf, LLC under federal Stop Sale, Use Or Removal Order (SSURO). The following pesticides were placed under SSURO:

Trade Name	EPA Reg. No.	Quantity
ANT, FLEA & TICK KILLER	Unknown	two/2 to 3 pound bags
FERTILIZER WITH WEED CONTROL	83893-1	estimated 50,000 pounds
FIRE ANT & PREVENTER BAIT	89893-6	estimated 20,000 pounds
KILLS DOLARWEED	Unknown	estimated 8 pound bin
YARD GRANULES PREVENTS WEEDS	Unknown	two/estimated 100 lb. bins
GRUB CONTROL II	Unknown	estimated 80 pound bin
GRUB CONTROL I	Unknown	estimated 250 pound bin
FLEA & TICK CARPET POWDER	Unknown	one/2 pound bag
GOPHER BEGONE	Unknown	one/5 pound
BROADLEAF WEED STOPPER	Unknown	three/27 pound pails
ANT, FLEA & TICK KILLER	Unknown	one/30 pound bag
ANT, FLEA & TICK KILLER	Unknown	two/25 pound jugs



SSURO List Continued:

ANT, FLEA & TICK KILLER	Unknown	one/21 pound pail
CRABGRASS STOPPER	Unknown	estimated 7 pound bin
TRIPLE PLAY FERTILIZER AND WEED KILLER AND PESTICIDE	Unknown	estimated 250 pound bin
BROADLEAF WEED PREVENTER	Unknown	estimated 100 pound bin
YARD FUNGUS CONTROL	Unknown	estimated 300 to 400 lb. bin
FUNGUS BEGONE	Unknown	estimated 200 pound bin
FERTILIZER WITH MOSS CONTROL	Unknown	estimated 250 to 300 lb. bin
GRUB CONTROL	Unknown	estimated 2,700 pound bin
GRUB CONTROL	Unknown	estimated 3,000 pound bin
ANT, FLEA & TICK KILLER	Unknown	30/30 pound bags
CRABGRASS PREVENTER	Unknown	estimated 2,700 pound bin
ALL PURPOSE INSECT KILLER	Unknown	two bins/estimated 1,900 lbs.
LOW NITRATE WEED & FEED	Unknown	estimated 750 pound bin
CONTROL OF DISEASES LAWN FUNGICIDE	Unknown	estimated 250 pound bin
FALL WEED & FEED	Unknown	estimated 1,500 pound bin
LAWN FUNGUS CONTROL	Unknown	estimated 750 pound bin
WEED PREVENTER GRANULES	Unknown	estimated 650 pound bin
ANT, FLEA & TICK KILLER	Unknown	estimated 3,000 pound bin
22-2-2 WITH MOSS CONTROL	Unknown	estimated 600 pound bin
BROADLEAF WEED PREVENTER	Unknown	estimated 450 pound bin
5% INSECT DUST	Unknown	estimated 800 pound bin

SSURO List Continued:

ANT, FLEA & TICK KILLER	Unknown	estimated 700 pound bin
SNAIL & SLUG KILLER 1	Unknown	estimated 50 pound bin
SNAIL & SLUG KILLER 2	Unknown	two/estimated 50 pound bins
BUG BAIT	Unknown	estimated 5 pound bin
10% DUST	Unknown	estimated 200 pound drum
50% WEED KILLER	Unknown	one gallon jug
SNAIL & SLUG KILLER	Unknown	four/5 pound bags
5% INSECT DUST	Unknown	eight/5 pound bags & Two/10 pound bags
FIRE ANT KILLER	Unknown	estimated 25 pound box

I placed an estimated 93,100 pounds of dry formulation pesticides and one gallon of liquid formulation pesticides under SSURO. The SSURO document and attached product list was placed on a pallet of 30/30 pound bags of ANT, FLEA & TICK KILLER that was displayed near the sales counter in the firm's product display area. I advised Mr. Applegarth of the restrictions of the SSURO and advised him to contact EPA Region – 7 offices in Kansas City, Kansas regarding movement or remediation of the pesticide products included within the SSURO.

During the closing conference with Mr. Applegarth he stated that Mrs. Becker had routinely made inspection visits to the Greenleaf, LLC facility in Neosho on a weekly basis. He said he had been convinced Greenleaf, LLC was operating in an appropriate manner. Mr. Applegarth stated that he had no idea anything different needed to be done in handling pesticides. Mr. Applegarth's comments were collected in a three page written statement. Digital photographs and copies of documents were collected during the inspection. A Receipt For Samples was issued to Mr. Applegarth.

On January 23, 2008 I received a copy of the *PRODUCT RECYCLING AGREEMENT* between Greenleaf, LLC and Wal-Mart Stores East, LP. The document, hereinafter referred to as the Agreement was forwarded by Missouri DNR to the Missouri Department of Agriculture.

Under the Agreement Wal-Mart allows Greenleaf, LLC access to accumulated quantities of goods, including pesticides that are identified as "Products" accumulated and maintained at Wal-Mart Return Centers. The Agreement allows Greenleaf, LLC access to solid and liquid pesticides accumulated at Wal-Mart Return Centers. Greenleaf, LLC,

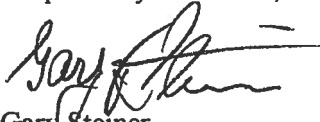
identified as the Contractor in the Agreement agrees that it will blend and mix the Products in a manner that is consistent with all regulatory and legal requirements. Furthermore, the product resulting from this mixture shall contain no trade names, trademarks or other intellectual property of Wal-Mart or any of the manufacturers of the solid pesticide. All original packaging of the Products shall be properly recycled or disposed of and material shall be repackaged and sold only for its intended purpose, according to the Agreement.

#### **ATTACHMENTS:**

Notice of Inspection signed by Mr. Applegarth  
Notice of Inspection signed by Mr. Smith  
Statement signed by Mr. Applegarth (3)  
FTTS Inspection Sheet  
FTTS Sample Sheet (2)  
Receipt For Samples signed by Mr. Applegarth (2)  
Books & Records Maintenance Form  
History of Official Sample (3)  
Cover Letter to UHL  
Copy of EPA Stop Sale, Use Or Removal Order  
Aerial Photo of Site  
Digital Photographs  
Digital Image Chain of Custody  
Digital Image Description Sheet (3 sets)  
Copy of Wal-Mart/Greenleaf, LLC *PRODUCT RECYCLING AGREEMENT*  
Copies of Greenleaf, LLC Advertising Brochures  
FERTILIZER WITH WEED CONTROL, EPA Reg. No. 83893-1 Bin Label  
LAWN FERTILIZER WITH WEED CONTROL, EPA Reg. No. 83893-2 Bin Label  
LAWN INSECT KILLER GRANULES (2% SEVIN), EPA Reg. No. 83893-3 Bin Label  
LAWN & GARDEN INSECT CONTROL, EPA Reg. No. 83893-4 Bin Label  
LAWN & SOIL INSECT KILLER, EPA Reg. No. 83893-5 Bin Label  
FIRE ANT KILLER & PREVENTER BAIT, EPA Reg. No. 83893-6 Bin Label  
FAST KILL FIRE ANT MOUND DESTROYER, EPA Reg. No. 83893-7 Bin Label  
ST. AUGUSTINE LAWN WEED & FEED, EPA Reg. No. 83893-8 Bin Label  
LAWN & GARDEN 5% DUST, EPA Reg. No. 83893-9 Bin Label  
LAWN & GARDEN 10% DUST, EPA Reg. No. 83893-10 Bin Label  
LAWN INSECT CONTROL (Bifenthrin .115%), EPA Reg. No. 83893-11 Bin Label  
INSECTICIDE GRANULES (Permethrin 0.25%), EPA Reg. No. 83893-12 Bin Label  
LAWN FUNGUS CONTROL, EPA Reg. No. 83893-13 Bin Label  
WEED & FEED, EPA Reg. No. 83893-15 Bin Label  
WEED & FEED II, EPA Reg. No. 83893-16 Bin Label  
LAWN FERTILIZER WITH SUMMER INSECT, EPA Reg. No. 83893-17 Bin Label  
LAWN INSECT KILLER (.1% Deltamethrin), EPA Reg. No. 83893-21 Bin Label  
FERTILIZER WITH INSECT CONTROL, EPA Reg. No. 83893-22 Bin Label

LAWN FERTILIZER WITH CRABGRASS PREV., EPA Reg. No. 83893-23 Bin Label  
LAWN FERTILIZER WITH CRABGRASS, EPA Reg. No. 83893-24 Bin Label  
LAWN FERTILIZER WITH MOSS CONTROL, EPA Reg. No. 83893-25 Bin Label  
LONG LASTING INSECT KILLER, EPA Reg. No. 83893-XXX Bin Label  
Copy of Fax Transmittal from Robert Applegarth to Greenleaf, LLC Headquarters  
Copy of Incoming Shipment Check-In Sheet (blank)  
Copies of Incoming Shipment Check-In Sheet (completed)  
Copies of Bills of Lading  
Copy of Three Page Production Record  
Copies of Greenleaf, LLC Pesticide Shipping Records  
Copies of Greenleaf, LLC Pesticide Inventory Records  
Copies of Greenleaf, LLC Sorted Inventory Sheets

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gary Steiner", with a long horizontal flourish extending to the right.

Gary Steiner  
Pesticide Investigator  
Missouri Department of Agriculture  
February 4, 2008